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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ORVAL FRAZIER,

Plaintiff,

v.

HAROLD CLARKE, *et al.*,

Defendants.

Case No. C07-5691FDB/JKA

ORDER DENYING PLAINTIFF'S
MOTION FOR A SIX MONTH
CONTINUANCE

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636(b)(1)(A) and 636(b)(1)(B) and Local Magistrates' Rules MJR 1, MJR 3, and MJR 4. Before the court is plaintiffs' motion asking for a six-month continuance of defendants' two pending motions for summary judgment (Dkt # 36). The motion is opposed by all defendants (Dkt. # 37 and 38).

Plaintiff sets forth five reasons for a continuance (Dkt # 36). The first reason given is the fact that plaintiff is an inmate and acting pro se. He alleges there are a limited number of typewriters and limited use of a law library. This provides no grounds for a continuance. The court accepts handwritten documents from pro se plaintiffs on a routine basis. Defendants moved for summary judgment at the close of the time allotted for discovery. Discovery closed in this case on June 27,

1 2008. Defendants noted their motions for summary judgment approximately one month later.
2 Plaintiff has had four weeks to respond. Plaintiff fails to show he has taken any steps to begin
3 responding to the defendants motions.

4 The second reason given by plaintiff for a continuance is a May 4, 2008, surgery to remove a
5 cancerous tumor from his spinal cord. While this would normally provide grounds for a continuance,
6 plaintiff fails to show a continuance of any amount of time, would allow him to prevail against the
7 motions for summary judgment. Defendants note, they have medical experts, who have submitted
8 evidence that plaintiff's retinal detachment is not related to the conditions the defendants treated him
9 for earlier. Thus, plaintiff cannot show a causal link between his prior eye irritation and the detached
10 retina. Without this causal link, his Eighth Amendment claim fails.

11 The third reason given for a continuance is Plaintiffs' alleges he will be in chemotherapy for
12 the next six months. While this would be grounds for a continuance, he again fails to show what
13 steps he could take to avoid the dismissal on the pending motions. He cannot conduct discovery,
14 and has no expert testimony supporting his claim.

15 The forth reason given is Plaintiff claim that because he is in the hospital, he does not have
16 access to his cell mate, who was helping with this litigation. This is not grounds for a continuance.

17 Finally, plaintiff states he has "yet to request or receive, production of evidence from the
18 defendants." The scheduling order in this action issued January 30, 2008. Plaintiff had six months to
19 conduct discovery and failed to do so. A continuance is not warranted. Plaintiff's motion is
20 **DENIED.**

21 The Clerk of Court is directed to send a copy of this Order to plaintiff and to counsel for
22 defendants and remove Dkt. # 36 from the court's calendar.

23 DATED this 11 day of August, 2008.

24
25 /S/ J. Kelley Arnold
26 J. Kelley Arnold
27 United States Magistrate Judge
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